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9  
10 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
**DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:  
13 **WENDY JOY STALEY A.K.A. WENDY**  
**JOY ARMSTRONG**  
14 4408 Emerson Drive  
Plano, TX 75093  
15  
16 Registered Nursing License No. 498104  
Respondent.

Case No. 2008-117

**A C C U S A T I O N**

17  
18 Complainant alleges:

19 **PARTIES**

20 1. Ruth Ann Terry, M.P.H, R.N ("Complainant") brings this Accusation  
21 solely in her official capacity as the Executive Officer of the Board of Registered Nursing  
22 ("Board"), Department of Consumer Affairs..

23 2. On or about March 31, 1994, the Board issued Registered Nursing License  
24 Number 498104 to Wendy Joy Staley a.k.a. Wendy Joy Armstrong ("Respondent"). The License  
25 was in full force and effect at all times alleged herein and will expire on October 31, 2007, unless  
26 renewed.

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## STATUTORY PROVISIONS

3. This Accusation is brought before the Board under the authority of the California statutes given below. All section references are to the Business and Professions Code ("Code") unless otherwise indicated.

4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with Code section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.

6. Section 2761 of the Code states, in relevant part:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

"(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions."

7. Section 2762 of the Code states, in relevant part:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

"(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

"(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

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“(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any hospital, patient, or other record pertaining to the substances described in subdivision (a) of this section.”

8. Code section 4022 states, in relevant part:

“Dangerous drug” . . . means any drug . . . unsafe for self-use in humans or animals, and includes the following:

(a) Any drug that bears the legend: “Caution: federal law prohibits dispensing without prescription,” “Rx only,” or words of similar import.”

...

(c) Any other drug . . . that by federal or state law can be lawfully dispensed only on prescription or furnished pursuant to Section 4006.”

9. Health and Safety Code (“H&S”) section 11170 states that no person shall prescribe, administer, or furnish a controlled substance for himself.

10. Code section 4060 states, in pertinent part:

No person shall possess any controlled substances, except that furnished to a person upon prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor....

11. Health & Safety Code section 11173, subdivision (a), states, in pertinent part:

“(a) No person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure the administration of . . . controlled substances, (1) by fraud, deceit, misrepresentation, or subterfuge; or (2) by the concealment of a material fact.”

12. Health & Safety Code section 11350 provides that “except as otherwise provided in this division, every person who possesses (1) any controlled substance specified in subdivision (b) and (c), or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055, or specified

1 in subdivision (h) in Section 11056, or (2) any controlled substance classified as  
2 Schedule III, IV or V which is a narcotic drug unless upon the written prescription of  
3 a physician, dentist, podiatrist, or veterinarian licensed to practice in this state, shall  
4 be punishable by imprisonment in the state prison.

### 5 **REGULATORY PROVISIONS**

6 13. California Code of Regulations, title 16, section 1442, states:

7 As used in Section 2761 of the code, 'gross negligence' includes an  
8 extreme departure from the standard of care which, under similar  
9 circumstances, would have ordinarily been exercised by a competent  
10 registered nurse. Such an extreme departure means repeated failure to provide  
nursing care as required or failure to provide care or to exercise ordinary  
precaution in a single situation which the nurse knew, or should have known,  
could have jeopardized the client's health or life.

11 14. California Code of Regulations, title 16, section 1443, states:

12 As used in Section 2761 of the code, 'incompetence' means the lack  
13 of possession of or the failure to exercise that degree of learning, skill, care  
14 and experience ordinarily possessed and exercised by a competent registered  
nurse as described in Section 1443.5.

### 15 **DRUGS**

16 15. Demerol is the brand name for Mepedrine, which is a  
17 synthetic opiate medication, a Schedule II controlled substance as designated by  
18 Health and Safety Code section 11055(c)(17) and a dangerous drug pursuant to Code  
19 section 4022.

20 16. Vicodin is a compound consisting of 5 mg hydrocodone  
21 bitartrate, also known as dihydrocodeinone, and 500 mg acetaminophen per tablet  
22 and is a Schedule III controlled substance pursuant to Health & Safety Code section  
23 11056(e)(4) and a dangerous drug pursuant to Code section 4022.

### 24 **COST RECOVERY**

25 17. Code section 125.3 provides, in pertinent part, that the Board  
26 may request the administrative law judge to direct a licensee found to have  
27 committed a violation or violations of the licensing act to pay a sum not to exceed  
28 the reasonable costs of the investigation and enforcement of the case.

1                                   **FIRST CAUSE FOR DISCIPLINE**

2                                   (Gross Negligence)

3                   18.     Respondent is subject to discipline under Code section 2761,  
4 subdivision (a)(1), on the grounds of unprofessional conduct, in that between on or  
5 about March 1, 2004 and on or about May 9, 2004, while on duty as a registered  
6 nurse at the Correctional Treatment Center at California State Prison-Corcoran,  
7 Substance Abuse Treatment Facility, Corcoran, California, Respondent committed  
8 the acts of gross negligence within the meaning of California Code of Regulations,  
9 title 16, section 1442, as more particularly alleged in sub-paragraphs (a) through (w)  
10 of Paragraph 22.

11                                   **SECOND CAUSE FOR DISCIPLINE**

12                                   **(Unprofessional Conduct-Incompetence )**

13                   19.     Respondent is subject to discipline under Code section 2761,  
14 subdivision (a)(1), on the grounds of unprofessional conduct, in that between on or  
15 about March 1, 2004 and on or about May 9, 2004, while on duty as a registered  
16 nurse at the Correctional Treatment Center at California State Prison-Corcoran,  
17 Substance Abuse Treatment Facility, Corcoran, California, Respondent committed  
18 the acts of gross negligence within the meaning of California Code of Regulations,  
19 title 16, section 1442, as more particularly alleged in sub-paragraphs (a) through (w)  
20 of Paragraph 22.

21                                   **THIRD CAUSE FOR DISCIPLINE**

22                                   **(Unprofessional Conduct-Obtain, Possess and Self-Administer Controlled**  
23 **Substances in Violation of Law)**

24                   20.     Respondent is subject to discipline under Code section 2761,  
25 subdivision (a), on the grounds of unprofessional conduct, as defined in Code section  
26 2762, subdivision (a), in that between on or about March 1, 2004 and on or about  
27 May 9, 2004, while on duty as a registered nurse at the Correctional Treatment  
28 Center at California State Prison-Corcoran, Substance Abuse Treatment Facility,

1 Corcoran, California, Respondent committed the acts described below and as more  
2 particularly alleged in sub-paragraphs (a) through (w) of Paragraph 22:

3 (a) Respondent obtained Demerol and Vicodin, controlled  
4 substances, by fraud, deceit, misrepresentation or subterfuge, by taking the drugs  
5 from hospital supplies and/or diverting them from the inmates/patients for whom  
6 such drugs were prescribed, in violation of Health & Safety Code section 11173,  
7 subdivision (a).

8 (b) Respondent possessed Demerol and Vicodin, controlled  
9 substances, in violation of Code section 4060 and Health & Safety Code section  
10 11350.

11 (c) Respondent administered Demerol and Vicodin, controlled  
12 substances, to herself in violation of Health and Safety Code section 11170.

13 **FOURTH CAUSE FOR DISCIPLINE**

14 **(Use of Controlled Substances to an Extent or in a Manner Dangerous or**  
15 **Injurious)**

16 21. Respondent is subject to discipline under Code section 2761,  
17 subdivision (a), on the grounds of unprofessional conduct, as defined in Code section  
18 2762, subdivision (b), in that between on or about March 1, 2004 and on or about  
19 May 9, 2004, while on duty as a registered nurse at the Correctional Treatment  
20 Center at California State Prison-Corcoran, Substance Abuse Treatment Facility,  
21 Corcoran, California, Respondent used Demerol and Vicodin, both controlled  
22 substances, to an extent or in a manner dangerous to herself or others as more  
23 particularly alleged in sub-paragraphs (a) through (w) of Paragraph 22.

24 **FIFTH CAUSE FOR DISCIPLINE**

25 **(Unprofessional Conduct-Falsify, Make Grossly Incorrect or**  
26 **Inconsistent, or Unintelligible Entries in Records)**

27 22. Respondent is subject to discipline under Code section 2761,  
28 subdivision (a), on the grounds of unprofessional conduct, as defined in Code section

1 2762, subdivision (e), in that between on or about March 1, 2004 and on or about  
2 May 9, 2004, while on duty as a registered nurse at the Correctional Treatment  
3 Center at California State Prison-Corcoran, Substance Abuse Treatment Facility,  
4 Corcoran, California, Respondent falsified or made grossly incorrect, inconsistent, or  
5 unintelligible entries in the following inmate medical records:

6 **Inmate/Patient # H30654**

7 **Demerol**

8 (a) On or about April 9, 2004, at approximately 2100 hours, Respondent  
9 charted administration of one carpject of Demerol, 50mg/ml, but instead of  
10 administering said medication to the patient, administered said carpject of Demerol  
11 to herself.

12 (b) On or about April 12, 2004, at approximately 1200, 1600 and 2000  
13 hours, Respondent charted administration to the patient of three carpjects of  
14 Demerol, 50mg/ml each, for a total of 150 mg/ml of Demerol. Instead of  
15 administering said medications to the patient, Respondent administered each of said  
16 carpjects of Demerol to herself.

17 (c) On or about April 13, 2004, at approximately 1400 and 2100 hours,  
18 Respondent charted administration to the patient of two carpjects of Demerol,  
19 50mg/ml each, for a total of 100 mg/ml of Demerol. Instead of administering said  
20 medications to the patient, Respondent administered each of said carpjects of  
21 Demerol to herself.

22 (d) On or about April 16, 2004, at approximately 1800 hours, Respondent  
23 charted administration to the patient of one carpject of Demerol, 50mg/ml. Instead  
24 of administering said medication to the patient, Respondent administered said  
25 carpject of Demerol to herself.

26 (e) On or about April 17, 2004, at approximately 2100 hours, Respondent  
27 charted administration to the patient of one carpject of Demerol, 50mg/ml. Instead  
28 of administering said medication to the patient, Respondent administered said

1 carpuject of Demerol to herself.

2 (f) On or about April 18, 2004, at approximately 0900 and 2100 hours,  
3 Respondent charted administration to the patient of two carpujects of Demerol,  
4 50mg/ml each, for a total of 100 mg/ml of Demerol. Instead of administering said  
5 medications to the patient, Respondent administered each of said carpujects of  
6 Demerol to herself.

7 (g) On or about April 20, 2004, at approximately 1500 and 2000 hours,  
8 Respondent charted administration to the patient of two carpujects of Demerol,  
9 50mg/ml each, for a total of 100 mg/ml of Demerol. Instead of administering said  
10 medications to the patient, Respondent administered each of said carpujects of  
11 Demerol to herself.

12 (h) On or about April 22, 2004, at approximately 1600 and 2200 hours,  
13 Respondent charted administration to the patient of two carpujects of Demerol,  
14 50mg/ml each, for a total of 100 mg/ml of Demerol. Instead of administering said  
15 medications to the patient, Respondent administered each of said carpujects of  
16 Demerol to herself.

17 (i) On or about April 26, 2004, at approximately 0900 hours, Respondent  
18 charted administration to the patient of one carpuject of Demerol, 50mg/ml. Instead  
19 of administering said medication to the patient, Respondent administered said  
20 carpuject of Demerol to herself.

21 (j) On or about April 27, 2004, at approximately 1630 hours, Respondent  
22 charted administration to the patient of one carpuject of Demerol, 50mg/ml. Instead  
23 of administering said medication to the patient, Respondent administered said  
24 carpuject of Demerol to herself.

25 (k) On or about May 1, 2004, at approximately 2300 hours, Respondent  
26 charted administration to the patient of one carpuject of Demerol, 50mg/ml. Instead  
27 of administering said medication to the patient, Respondent administered said  
28 carpuject of Demerol to herself.



1 (l) On or about May 2, 2004, at approximately 0600, 1200 and 2200  
2 hours, Respondent charted administration to the patient of three carpuments of  
3 Demerol, 50mg/ml each, for a total of 150 mg/ml of Demerol. Instead of  
4 administering said medications to the patient, Respondent administered each of said  
5 carpuments of Demerol to herself.

6 (m) On or about May 4, 2004, at approximately 1000, 1300 and 2200  
7 hours, Respondent charted administration to the patient of three carpuments of  
8 Demerol, 50mg/ml each, for a total of 150 mg/ml of Demerol. Instead of  
9 administering said medications to the patient, Respondent administered each of said  
10 carpuments of Demerol to herself.

11 (n) On or about May 6, 2004, at approximately 1630 and 2300 hours,  
12 Respondent charted administration to the patient of two carpuments of Demerol,  
13 50mg/ml each, for a total of 100 mg/ml of Demerol. Instead of administering said  
14 medications to the patient, Respondent administered each of said carpuments of  
15 Demerol to herself.

16 (o) On or about May 7, 2004, at approximately 0600, 1200 and 1700  
17 hours, Respondent charted administration to the patient of three carpuments of  
18 Demerol, 50mg/ml each, for a total of 150 mg/ml of Demerol. Instead of  
19 administering said medications to the patient, Respondent administered each of said  
20 carpuments of Demerol to herself.

21 (p) On or about May 9, 2004, at approximately 1800 and 2100 hours,  
22 Respondent charted administration to the patient of two carpuments of Demerol,  
23 50mg/ml each, for a total of 100 mg/ml of Demerol. Instead of administering said  
24 medications to the patient, Respondent administered each of said carpuments of  
25 Demerol to herself.

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1           **Inmate/patient # T-85504**

2           **Vicodin**

3           (q)     On or about April 7, 2004, at approximately 0600 and 1200,  
4 Respondent charted administration to the patient of two tablets of 500 mg Vicodin,  
5 two tablets on each occasion for a total of 4 tablets. Instead of administering said  
6 medications to the patient, Respondent diverted two of said tablets of Vicodin for  
7 herself.

8           (r)     On or about May 2, 2004, at approximately 0130, 0600, 0900 and  
9 1300 hours, Respondent charted administration to the patient of two tablets of 500  
10 mg Vicodin, two tablets on each occasion for a total of 8 tablets. Instead of  
11 administering said medications to the patient, Respondent diverted four of said  
12 tablets of Vicodin for herself.

13           (s)     On or about May 9, 2004, at approximately 0900, 1200, 1600, and  
14 2000 hours, Respondent charted administration to the patient of two tablets of 500  
15 mg Vicodin, for a total of 8 tablets of Vicodin. Instead of administering said  
16 medications to the patient, Respondent diverted two or more of said tablets of  
17 Vicodin for herself.

18           **Inmate/patient # T-99645**

19           **Vicodin**

20           (t)     On or about April 7, 2004, at approximately 0600 hours, Respondent  
21 charted administration to the patient of two tablets of 500 mg Vicodin. Instead of  
22 administering said medications to the patient, Respondent diverted said tablets of  
23 Vicodin for herself.

24           **Inmate/patient # V-06921**

25           **Vicodin**

26           (u)     On or about May 9, 2004, at approximately 2100 hours, Respondent  
27 charted administration to the patient of two tablets of 500 mg Vicodin. Instead of  
28 administering said medications to the patient, Respondent diverted said tablets of

1 Vicodin for herself.

2 **Inmate/patient P-47287**

3 **Vicodin**

4 (v) On or about May 2, 2004, at approximately 0000 hours, Respondent  
5 charted administration to the patient of two tablets of 500 mg Vicodin. Instead of  
6 administering said medications to the patient, Respondent diverted said tablets of  
7 Vicodin for herself.

8 **Inmate/patient #C-41368**

9 **Vicodin**

10 (w) On or about May 9, 2004, at approximately 0900 hours, Respondent  
11 charted administration to the patient of two tablets of 500 mg Vicodin. Instead of  
12 administering said medications to the patient, Respondent diverted said tablets of  
13 Vicodin for herself.

14 **PRAYER**

15 WHEREFORE, Complainant requests that a hearing be held on the  
16 matters herein alleged, and that following the hearing, the Board of Registered  
17 Nursing issue a decision:

18 1. Revoking or suspending Registered Nursing License No.  
19 498104, issued to Wendy Joy Staley a.k.a. Wendy Joy Armstrong Wendy Joy Staley  
20 a.k.a. Wendy Joy Armstrong;

21 2. Ordering Wendy Joy Staley a.k.a. Wendy Joy Armstrong to  
22 pay the reasonable costs of the investigation and enforcement of this case, pursuant  
23 to Business and Professions Code section 125.3;

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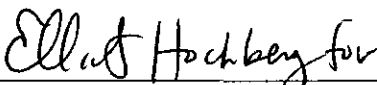
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3. Taking such other and further action as deemed necessary and proper.

DATED: 10/5/07

  
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RUTH ANN TERRY, M.P.H, R.N  
Executive Officer  
Board of Registered Nursing  
State of California  
Complainant

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